

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

PHL VARIABLE INSURANCE CO.       :  
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                                     :  
v.                                :  
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                                     :  
LARRY P. CHINN                 :  
                                     :  
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CIV. NO. 3:14CV241 (JCH)

ORDER RE: APRIL 28, 2015 TELEPHONE CONFERENCE

The Court held a telephone conference on April 28, 2015, to address defendant/counterclaim plaintiff Larry P. Chinn's ("defendant") discovery compliance. Counsel for plaintiff/counterclaim defendant PHL Variable Insurance Company ("PHL") and counsel for defendant participated in this call.

On April 22, 2015, this Court ordered defendant to provide PHL with complete discovery compliance, including document production and if applicable, a privilege log, no later than April 28 at 12:00PM. [Doc. #33, 2]. The parties have reported that defendant again failed to comply with the Court's order. PHL's counsel further represented that defendant's discovery responses were deficient in the following respects: (1) defendant's answers to PHL's interrogatories were not signed; (2) defendant's substantive answers to PHL's interrogatories appeared to be deficient on their face as non-responsive or not fully responsive; and (3) defendant failed to provide any document production. Defendant did, however, provide his responses to PHL's requests for admissions.

In light of these deficiencies, the Court directed counsel for PHL to supplement his motion for sanctions by detailing the

discovery he had received to date, and what discovery was missing. PHL's counsel should also clarify what, if any, additional sanctions PHL seeks in light of defendant's most recent dereliction. **PHL will file this supplement on or before May 1, 2015, to which defendant will file a response by May 11, 2015.**

The Court has also scheduled two case management conferences, the first of which will occur telephonically on May 5, 2015 at 11:30AM. The Court has also scheduled an in-person case management conference for May 13, 2015 at 10:00AM, where the personal attendance of Mr. Chinn is mandatory. A representative for PHL shall also attend this conference, or if no representative is available, PHL's national counsel shall participate in this conference via telephone. The parties are strongly encouraged to schedule Mr. Chinn's deposition to coincide with the date of the in-person conference.

Finally, the Court notes the sanctions available under Federal Rule of Civil Procedure 37(b)(2)(A), where a party fails to obey a discovery order. Under this rule, defendant's non-compliance with the Court's orders thus far, and as discussed during the April 28 telephone conference, could result in the dismissal of defendant's counterclaim. See id. at (v). Additionally, the Court, in its discretion, may (1) direct that certain designated facts be taken as established; (2) prohibit defendant from supporting or opposing certain claims and defenses, or from introducing certain matters in evidence; and (3) render a default judgment against defendant. See id. at (i)-(ii), (vi). Counsel for defendant will provide a copy of this order to Mr. Chinn and ensure that he is aware of the potential for sanctions

if the Court's discovery orders are further disregarded or, if Mr. Chinn fails to appear at the May 13, 2015 case management conference. The failure of Mr. Chinn to appear at the case management conference may also result in contempt proceedings. See Fed. R. Civ. P. 37(b)(2)(A)(vii).

This is not a Recommended Ruling. This is a discovery ruling or order which is reviewable pursuant to the "clearly erroneous" statutory standard of review. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); and D. Conn. L. Civ. R. 72.2. As such, it is an order of the Court unless reversed or modified by the district judge upon motion timely made.

ENTERED at New Haven, this 29<sup>th</sup> day of April 2015.

/s/  
Sarah A. L. Merriam  
UNITED STATES MAGISTRATE JUDGE